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DATE: July 17, 1996

TO: John Taylor  
Clerk of the Board

FROM: Robert Feldman *RF*  
Executive Secretary

RE: Amended Rules of the Board of Appeals


Attached is a copy of the Rules of the Board of Appeals amended by the Board at its regular meeting July 10, 1996.

The purpose of the amendments is to bring the Rules into compliance with the new Charter, as well as to make several minor changes in procedures.

If there are any questions or comments please feel free to telephone me at 554-6720.

Attachment

cc: Judith Boyajian  
Robert Passmore  
Joan MacQuarrie  
Sergeant William Coggan  
Government Documents Desk - SFPL



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RULES OF THE BOARD OF APPEALS

ARTICLE I - MEETINGS

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Section 1. Regular meetings of the Board shall be open to the public and shall be held on Wednesdays at 5:30 p.m. in the Commission hearing room provided in City Hall. If the regular meeting day falls on a legal holiday, it shall instead be held on the next business day or be cancelled.

Section 2. Special meetings of the Board shall be open to the public and shall be held at such times and places as the Board may determine by motion and majority vote, or may be called by the President for any time and place, and must be called by him or her upon the written request of two members of the Board, filed with the Executive Secretary.

Section 3. Notices of hearings shall be mailed by the Executive Secretary to all interested parties who have requested such notification, and to all parties on any list furnished to the Board by the respondent department for such notification. Notices should be sent not less than five (5) days before the meeting for which the matter is calendared. Announcement by the presiding officer of the Board at a public hearing of the time and place to which a hearing is continued shall be deemed sufficient notice and no mailed notice shall be required for any such continued hearing.

Section 4. There shall be a calendar provided for each meeting. It shall be the Board's policy that requests for jurisdiction and for rehearing, and matters for further hearing shall be considered first; and it shall be the policy to calendar public interest appeals as is most appropriate depending on other items on the calendar. The staff shall provide a sign-in sheet for those intending to speak at public interest hearings in order to assist in maintaining decorum in the hearing room. The calendar shall be posted as required by the relevant state and local laws.

Section 5. The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven (7) minutes for their pre-

sentation of relevant testimony and evidence and three (3) minutes for rebuttal. The appellant whose permit has been denied, revoked or suspended shall be allowed seven (7) minutes for presentation of relevant testimony and evidence and three (3) minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed (7) minutes to present relevant testimony and evidence and three (3) minutes for rebuttal, and the permit holder shall be allowed seven (7) minutes to present relevant testimony and evidence and three (3) minutes for rebuttal. The Board may request a departmental response at its own discretion.

In cases of multiple appeals of the same department action or permit, the appeals shall be joined and the appellants shall each be allowed seven (7) minutes to present relevant testimony and evidence and three (3) minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three (3) minutes.

Any written submittals must be received by the Board not later than 4:00 p.m. on the Thursday before the appointed hearing, with copies of said written submittals received by the other principals by the same time. Except by ruling of the chair for sufficient cause, no written materials will be accepted by the Board during the public hearing. Photographs, maps, plans and drawings may be used in presentations and submitted at hearing.

Section 6. No hearing brief, excluding exhibits, shall exceed twelve (12) substantive pages. The staff shall not accept briefs of more than twelve pages in length except with the prior written permission of the Board. All written submittals must be easily readable and are limited to 34 lines per page.

## ARTICLE II - OFFICERS AND TERMS OF OFFICE

Section 1. The President and Vice President shall be elected at the first regular meeting of the Board held after the 15th day of January of each year, or at a subsequent meeting after the 15th day of January. They shall hold office for one year at the pleasure of the Board, and until their successors are elected.

**Section 2.** The Board at any regular or special meeting shall appoint an Executive Secretary, who shall hold office at the pleasure of the Board and shall be administrative head of the department and of all activities under the jurisdiction of the Board.

### **ARTICLE III - DUTIES OF OFFICERS**

**Section 1.** The President shall preside at all meetings of the Board, and shall perform all other duties necessary or incidental to his or her office.

**Section 2.** In the absence of the President, or his or her inability to act, the Vice President shall take his or her place and perform his or her duties.

**Section 3.** It shall be the responsibility of the chair to assure a fair hearing to all parties, and that these rules as adopted are adhered to. It shall be the responsibility of the majority of the Board that the duties of the President and Vice President are properly exercised.

**Section 4.** The Executive Secretary shall serve as administrative head of the department and shall have responsibility for all activities of the department. He or she shall direct and supervise the personnel of the department and shall plan, assign, coordinate and review the program of work and the activities of the department. He or she shall allocate the time, personnel and funds of the department and shall be responsible for the administration of all regulatory measures entrusted to the department. He or she shall make investigations and reports of the Board's hearings and official actions, and shall certify all Notices of Decision and Order and all documents relating to the department. He or she shall examine incoming mail for proper referral and answer correspondence, shall maintain records of accounts and departmental operations, and shall verify payrolls and requisitions. The Executive Secretary shall prepare a calendar for each regular meeting, showing the names of the parties and the nature of the order or decision appealed from.

### **ARTICLE IV - COURT REPORTER**

**Section 1.** The Board shall designate a competent phonographic reporter as Official Reporter of the Board. The reporter shall attend all regular hearings

of the Board and shall take down by phonographic report the proceedings of the Board.

Section 2. When requested to do so by any party or parties in writing, the Official Reporter must, within a reasonable time after the request has been made, transcribe such portions as may be requested and to certify to same as being correctly reported and transcribed. The fees for such transcript shall be at the expense of the party requesting the transcript.

Section 3. The Official Reporter shall notify the Board of all requests for transcripts, and shall furnish the original copy thereof to the Board.

#### ARTICLE V - PROCEDURE

Section 1. Notice of Appeal. Pursuant to Part III, Section 30 of the San Francisco Municipal Code, the form provided for appeals against all departments, boards, commissions or persons except the Zoning Administrator, shall contain the following:

- (a) Name of appellant.
- (b) Name of respondent.
- (c) Appeal number.
- (d) Nature of the appeal.
- (e) Name and telephone number of appellant or his or her representative, and mailing address to which notices shall be sent.
- (f) Date on which appeal is scheduled for hearing.

Notice of Appeal forms for cases in which the Zoning Administrator is the respondent shall be as prescribed in Section 308.2 of the Planning Code, and shall also contain the following:

- (a) Name of appellant.
- (b) Name of respondent.
- (c) Appeal number.
- (d) Nature of appeal.
- (e) Name and telephone number of the appellant or his or her representative, and mailing address to which notices shall be sent.
- (f) Date on which appeal is scheduled for hearing.

The appellant may present a reasonable list of names and address of interested parties whom he or she wishes to receive notices.

**Section 2.** Method of appeal shall be as set forth in the San Francisco Municipal Code, Part III, Sections 8 through 16, 26, 30 and 31.

- (a) Together with the Notice of Appeal the appellant shall submit an original and nine copies of the following:
  - 1. Permit, application or other department determination being appealed.
  - 2. A typed statement setting forth the reasons for the appeal and what action is being requested of the Board.
- (b) In addition, the appellant shall submit the required fee and the names and addresses of the owners of properties abutting the subject property on a form provided by the Board staff.
- (c) Appeals shall be filed at the Board office during regular business hours up to 4:00 p.m. to enable staff to review submittals, prepare a receipt for the fee and to provide informational material to the appellant; except that appeals shall be accepted up to 5:00 p.m. if it is the last day of the appeal period.

**Section 3.** The Board may call upon and may designate without charge experts as it deems necessary, to report upon and make recommendations concerning technical matters in appeals.

**Section 4. Continuances.** It shall be the policy as provided in Section 8 of Part III of the Municipal Code that hearings shall be calendared between the tenth and forty-fifth day after filing. It is the determination of this Board that such hearing would be deemed for the benefit of the appellant, and upon written request continuances may be granted by the Executive Secretary with approval of the President or the Vice President of the Board.

**Section 5. Site Inspections.** Date and time for site inspections shall be by motion and majority vote. A vote shall be by motion. A vote shall not be called unless by motion and majority vote.

**Section 6. Rehearings.** Written requests for rehearing must be filed within ten (10) days from the date of the decision. Such rehearing request may be filed only by principals in the appeal. In no event shall there be more than one rehearing after the Board has voted on an appeal. No requests for rehearing shall be accepted after the Board has either considered and rejected a request for rehearing or has voted to rehear a matter and has so reheard and voted.



Except in extraordinary cases, and to prevent manifest injustice, motions for rehearing shall not be made by the Board except where it is shown that new or different material facts or circumstances have arisen, where such facts or circumstances, if known at the time, could have affected the outcome of the original hearing. The applicant for rehearing shall submit a written request stating (1) the nature and character of the new facts or circumstances; (2) the names of the witnesses and/or a description of the documents to be produced; and (3) why the evidence was not produced at the original hearing.

Failure to exercise due diligence to produce the new facts and circumstances at the previous hearing shall be deemed grounds for denial of the request.

All presentations for request for rehearing shall be in writing, and it shall be the general practice of the Board that testimony up to three minutes for each speaker shall be received when such a request for rehearing is considered by the Board.

**Section 7. Parliamentary Procedure.** The rules of parliamentary practice, as set forth in Robert's Rules of Order, shall govern all meetings of the Board except as otherwise herein provided.

**Section 8. Indigency.** In determining indigency for the purposes of waiver of appeal fees under Section 8 of Part III of the S.F. Municipal Code, the staff shall use the standards of the Department of Social Services.

## **ARTICLE VI - AMENDMENTS**

**Section 1.** These rules may be amended permanently or temporarily by the Board at any meeting by a majority vote.

Rules effective as of November 16, 1982  
Amended August 28, 1985  
Amended February 5, 1986  
Amended April 20, 1988  
Amended November 30, 1988  
Amended October 14, 1992  
Amended September 22, 1993  
Amended April 12, 1995  
Amended July 10, 1996